



Office of the Attorney General  
State of Texas

January 31, 1996

DAN MORALES  
ATTORNEY GENERAL

Mr. Robert J. Miklos  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-0130

Dear Mr. Miklos:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36938.

The City of Dallas (the "city") received a request for information concerning a specific incident of aggravated assault. You contend that the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

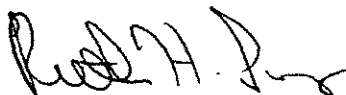
The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests)

You state that the police department received a request dated October 17, 1995, but that the police department did not receive the request until October 23, 1995. We note that the request letter is stamped received by the Legal Services Liaison on October 17, 1995. We assume that the legal services liaison is an employee/department of the city. The Open Records Act places an implicit duty on a chief administrative officer to instruct his staff about compliance with the Open Records Act. Open Records Decision Nos. 576

(1990), 497 (1988). The city received the information, therefore, on the 17th of October and the tenth day was the 27th of October.<sup>1</sup> In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information.<sup>2</sup> Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). If you have any questions regarding this matter, please contact our office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/LBC/ch

Ref: ID# 36938

Enclosures: Submitted documents

cc: Mr. Chris Whitaker  
2300 Greyson # 324  
Grapevine, Texas 76051  
(w/o enclosures)

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<sup>1</sup>We note that even if the city had received the request on October 23, 1995, the city's request for an open records decision is postmarked November 3, 1995. *See* Gov't Code § 552.308 (timeliness of action by mail). The tenth day for a request received on October 23, 1995, is November 2, 1995. The request to this office must be postmarked within the ten day period. *Id.*

<sup>2</sup>We note that you have submitted information that does not appear responsive to this request.